



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,382	01/21/2004	Hidefumi Konishi	O3020.0360/P360	9828
24998	7590	08/14/2007		
DICKSTEIN SHAPIRO LLP 1825 EYE STREET NW Washington, DC 20006-5403			EXAMINER MILLIKIN, ANDREW R	
			ART UNIT 2837	PAPER NUMBER
			MAIL DATE 08/14/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

28

Office Action Summary	Application No. 10/760,382	Applicant(s) KONISHI ET AL.	
	Examiner Andrew Millikin	Art Unit 2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1, 4, 6, & 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshino (JP 11220518, hereafter '518) in view of Farrand (U.S. Patent No. 4,945,804, hereafter '804).

Claims 1, 12, & 15: '518 teaches a music data producing method comprising: inputting a melody voice; outputting said melody voice to a melody-data producing means; integrating said melody voice and said key depression timing to produce musical data; and outputting said musical data [0006-0016]. '518 does not teach

Art Unit: 2837

inputting a key depression timing corresponding to a rhythm of said melody voice. '804 teaches that allowing users to input key depression timing corresponding to a rhythm of an inputted melody allows the user complete flexibility and control in entering music data to be transcribed (see paragraph bridging cols. 8 & 9). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have allowed users to input key depression timing corresponding to a rhythm of an inputted melody in order to give users complete flexibility and control in entering music data to be transcribed (and for the other reasons enumerated in '804).

Claims 4, 6, 13, & 14: '518 teaches using a cell phone [0002].

Claim 16: '804 teaches using said key depression timing to cut said melody into musical notes having a distinct pitch and note value (see Figs. 5 & 7)

Claim 17: '518 teaches inputting specifications from said terminal unit; converting said musical data to match said specifications of said terminal unit; and outputting said converted musical data to said terminal unit.[0010]

Claim 18: '518 teaches storing said converted musical data in said terminal unit; and outputting said converted musical data as an incoming indicator melody [0003; 0006-0016].

4. Claims 2-3, 19-21, 23, & 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over '518 & '804 and further in view of Aoki et al. (U.S. Patent No. 6,472,591, hereafter '591).

Claims 2, 3, 19: '518 and '804 teach the music data producing system according to claim 1 (see above), but do not specifically teach that music data produced by said music data producing means comprises both melody data and accompaniment data. '591 teaches that automatically adding an accompaniment part to a user-generated melody part is advantageous in order to make the overall composition more enjoyable and/or complex (see paragraph bridging cols. 6 & 7 and the paragraph following). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have generated an automatic accompaniment along with the user-generated melody data of '518 in order to have made the overall composition more enjoyable and/or complex.

Claim 19: See also the rejection of claim 1 above.

Claim 20: See the rejection of claim 16 above.

Claim 21: See the rejection of claims 2 & 3 above.

Claims 23 & 24: See the rejection of claims 4 & 6 above.

5. Claims 5 & 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over '518 & '804 and further in view of Segal et al. (U.S. Patent Application Publication 2001/0000505, hereafter '505).

Claims 5 & 7: '518 and '804 teach the music data producing system according to claim 4, but do not teach that the music data producing means is provided in a server apparatus. '505 teaches that using a server to do complex processing allows cellular phones to operate with a minimal amount of processing power or stored intelligence,

Art Unit: 2837

which results in the cellular phone itself being cheaper to manufacture, more compact, less power-consuming, etc. [0094]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a server to have performed complex processing in order to have allowed the individual terminals (or cellular phones) to operate with a minimal amount of processing power or stored intelligence, thus resulting in cheaper, more compact, and more power-efficient terminals (or cellular phones).

Claim 8: See the rejection of claim 2 above.

Claim 9: See the rejection of claim 3 above.

Claim 10: See the rejection of claim 17 above.

Claim 11: See the rejection of claims 4, 6, 13, & 14 above.

6. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over '518, '804, & '591, and further in view of Bohm (U.S. Patent No. 3,681,508, hereafter '508).

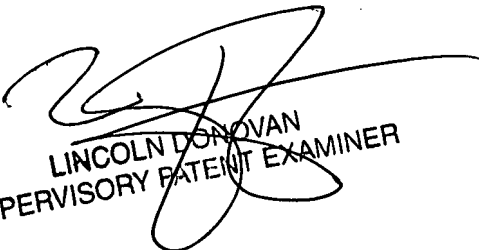
'518, '804, & '591 teach the method of claim 21, but do not explicitly teach that said accompaniment data are chords corresponding to the melody. '508 teaches that accompaniment data can consist of chords in order to supply a rich and full accompaniment (col. 2, lines 13-26). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have supplied chords as all or part of the accompaniment data in order to have supplied a rich and full accompaniment.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Millikin whose telephone number is 571-270-1265. The examiner can normally be reached on M-R 7:30-5 and 7:30-4 Alternating Fridays (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on 571-272-1988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



LINCOLN DONOVAN
SUPERVISORY PATENT EXAMINER